

By 

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BEFORE THE
SPEECH-LANGUAGE PATHOLOGY and AUDIOLOGY AND HEARING AID
DISPENSERS BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 11-2011-12

DENISE D. GRAY, SP
1260 Dewell Drive
Sonoma, CA 95476

A C C U S A T I O N

Speech-Language Pathologist License No.
SP 14125

Respondent.

Complainant alleges:

PARTIES

1. Annemarie Del Mugnaio ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

2. On or about August 10, 2004, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board ("Board") issued Speech-Language Pathologist License Number SP 14125 to Denise D. Gray, SP ("Respondent"). The Speech-Language Pathologist License expired on July 31, 2010, and has not been renewed.

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2531.5 of the Code provides that the Board shall issue, suspend, and revoke licenses and approvals to practice speech-language pathology and audiology as authorized by this chapter.

5. Section 2533 of the Code provides that the board may suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct. The section states, in pertinent part: "Unprofessional conduct shall include, but shall not be limited to, the following:

"(f) Incompetence or gross negligence in the practice of speech-language pathology or audiology. . . ."

6. California Code of Regulations section 1399.156 states:

"Unprofessional conduct as set forth in Section 2533 of the code includes, but is not limited to the following:

(a) Violating or conspiring to violate or aiding or abetting any person to violate the provisions of the Act or these regulations.

(b) Committing any corrupt act, or any abusive act against a patient, which is substantially related to the qualifications, functions or duties of a speech-language pathologist or audiologist.

(c) Incompetence or negligence in the practice of speech-language pathology or audiology which has endangered or is likely to endanger the health, welfare, or safety of the public."

7. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

8. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the

Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

9. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

FIRST CAUSE FOR DISCIPLINE

(Out of State Discipline)

[BandP Code § 141]

10. Respondent is subject to disciplinary action under section 141 of the Code in that the Oregon State Board of Examiners For Speech-Language Pathology and Audiology (hereinafter "Oregon Board") imposed disciplinary action against Respondent in Agency Case Nos. 2010-02 and 2010-38. The circumstances are as follows:

A. On or about August 13, 2008, the Oregon Board issued Respondent a license as a Speech Language Pathologist. On June 4, 2010, the Oregon Board reviewed information received regarding Respondent's treatment and care of dysphagia patients while working at a skilled nursing facility in her capacity as a licensed Speech Language Pathologist. The Oregon Board found Respondent's ability to continue to practice as a Speech Language Pathologist in an environment treating elderly patients is a serious danger to the public health and safety. Specifically,

1 the Oregon Board found that Respondent's treatment is not provided in a
2 competent manner, including but not limited to: (1) incomplete evaluations and
3 assessments of patients; (2) using treatments that are inappropriate for the age
4 group and condition being treated; and (3) very inconsistent or lack of reporting
5 of objective data required to ensure appropriate care. The Oregon Board
6 accordingly issued an Order of Emergency Suspension to Respondent.

7 B. On or about September 10, 2010, the Oregon Board properly served notice upon
8 Respondent that the Oregon Board intended to revoke her Speech-Language
9 Pathologist license. Respondent did not timely request a hearing on the matter.
10 The Oregon Board concluded that Respondent: (1) failed to perform essential job
11 functions as a school-based Speech Language Pathologist and failed to comply
12 with local district rules and policies during her employment; (2) failed to maintain
13 complete documentation of the clinical services she provided to students and
14 patients; (3) failed to provide all services competently in the treatment of her
15 assigned patients with dysphagia; and (4) provided dysphagia services without the
16 appropriate training, experience and competence. The Oregon Board accordingly
17 ordered Respondent's speech-language pathologist license revoked, effective
18 October 20, 2010.

19 SECOND CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct)

21 [BandP Code § 2533]

22 11. Respondent is subject to disciplinary action under section 2533 in that she engaged in
23 unprofessional conduct. The circumstances are as follows:

24 A. Complainant refers to and by this reference incorporates paragraph 10,
25 subparagraphs A and B, inclusive, as though set forth fully.

26 PRAYER

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board issue a decision:

1 1. Revoking or suspending Speech-Language Pathologist License Number SP 14125,
2 issued to Denise D. Gray, SP;

3 2. Ordering Denise D. Gray, SP to pay the Board the reasonable costs of the
4 investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3;

6 3. Taking such other and further action as deemed necessary and proper.

7 DATED: August 23, 2011

8 Annemarie Del Mugnaio
ANNEMARIE DEL MUGNAIO
9 Executive Officer
Speech-Language Pathology and Audiology and Hearing
10 Aid Dispensers Board
State of California
11 *Complainant*

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